

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

YADSER MARTINEZ CRUZ,

Defendant.

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Case No. 3:20-cr-0044

ORDER

BEFORE THE COURT is the Report and Recommendation of the Magistrate Judge recommending that the Court accept Yadser Martinez Cruz (“Cruz”) plea of guilty (ECF No. 98) to Count One of the Superseding Indictment, charging a violation of Title 21, United States Code, Section 846. For the reasons stated below, the Court will adopt the Report and Recommendation.

Pursuant to 28 U.S.C. § 636, “[w]ithin fourteen days after being served with a copy [of the Report and Recommendation], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). Here, neither party filed an objection within fourteen days of service of the Report and Recommendation. Therefore, “the scope of [the Court’s] review is far more limited and is conducted under the far more deferential standard of ‘plain error.’” *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) *aff’d* 276 Fed. App’x 125 (3d Cir. 2008); *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (“While . . . [28 U.S.C. § 636(b)(1)] may not require, in the absence of objections, the district court to review the magistrate’s report before accepting it, we believe that the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report.”).

After reviewing the record and the Report and Recommendation, the Court does not find plain error in any of the magistrate judge’s factual and legal findings. Therefore, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the Court finds that Cruz

United States v. Cruz
Case No. 3:20-cr-0044
Order
Page 2 of 2

entered his guilty plea knowingly and voluntarily, and that there was a factual basis for the plea. The Court, therefore, will adopt the Report and Recommendation and find Cruz guilty as to Count One of the Superseding Indictment. Accordingly, it is hereby

ORDERED that the Report and Recommendation (ECF No. 98) is **ACCEPTED**; it is further

ORDERED that Defendant Yadser Martinez Cruz's plea of guilty as to Count One of the Superseding Indictment is **ACCEPTED**, and that Cruz is adjudged **GUILTY** on that count; it is further

ORDERED that, pursuant to Fed. R. Crim. P. 32(c)(1)(A), the U.S. Probation Office shall conduct a presentence investigation for the preparation of a presentence report; it is further

ORDERED that the U.S. Probation Office shall disclose the preliminary presentence report to the parties no later than November 3, 2022; it is further

ORDERED that the parties shall submit any objections or corrections to the preliminary presentence report to the U.S. Probation Office no later than November 10, 2022; it is further

ORDERED that the U.S. Probation Office shall disclose the final presentence report to the parties and the Court no later than November 23, 2022; it is further

ORDERED that the parties shall file their sentencing memoranda no later than December 1, 2022; it is further

ORDERED that a sentencing hearing shall be held on Thursday, December 8, 2022, at 11:00 A.M. in STT Courtroom No. 1.

Dated: October 19, 2022

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge